

ARTICLE IX. SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE

DIVISION 1. GENERALLY

Sec. 8-241. Title. This ordinance will be known as the “Fayette County Soil Erosion and Sedimentation Control Ordinance.”

DIVISION 2. DEFINITIONS

Sec. 8-242. Definitions; Interpretation. The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

Applicant: Party submitting request and site plan for the purpose of obtaining a land disturbance permit.

Best Management Practices (BMP's): A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term “properly designed” means designed in accordance with the hydraulic design specifications contained in the “Manual for Erosion and Sediment Control in Georgia” specified in O.C.G.A. Section 12-7-6 subsection (b).

Board: The Board of Natural Resources.

Buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Commission: The State Soil and Water Conservation Commission.

Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavate surface. Also known as excavation.

Department: The Department of Natural Resources.

Director: The Director of the Environmental Protection Division of the Department of Natural Resources.

District: The Towaliga Soil and Water Conservation District.

Division: The Environmental Protection Division of the Department of Natural Resources.

Drainage Structure: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material than conveys water from one place to another by

intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.

Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and Sediment Control Plan: A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the “Plan”.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

Finished Grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Ground Elevation: The original elevation of the ground surface prior to cutting or filling.

Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 8-243, Paragraph 5.

Larger Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local Issuing Authority: The governing authority of any county or municipality which is certified pursuant to subsection (a) of O.C.G.A. Section 12-7-8. The Fayette County Engineering Department is the Local Issuing Authority for unincorporated Fayette County.

Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. Section 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Natural Ground Surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

One Hundred Year Flood Plain: Land subject to a one percent or greater statistical occurrence probability of flooding in any given year.

Operator: The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State, any interstate body or any other legal entity.

Project: The entire proposed development project regardless of the size of the area of land to be disturbed.

Qualified Personnel: Any person who meets or exceeds the education and training requirements of O.C.G.A. Section 12-7-19.

Roadway Drainage Structure: A device such as a bridge, culvert, or ditch, composed of a virtually nonerrodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Soil and Water Conservation District Approved Plan: An erosion and sedimentation control plan approved in writing by the Towaliga Soil and Water Conservation District. As of July

12, 1992, a Memorandum of Agreement between the District, Fayette County, and the State Soil and Water Conservation Commission permits the County to review and approve erosion and sediment control plans.

Stabilization: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures, including vegetation, for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State General Permit: The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of O.C.G.A. Section 12-5-30.

State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural Erosion and Sediment Control Practices: Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are rip-rap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Vegetative Erosion and Sedimentation Control Measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

1. Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
2. Temporary seeding, producing short-term vegetative cover; or
3. Sodding, covering areas with a turf of perennial sod-forming grass.

Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

DIVISION 3. EXEMPTIONS

Sec. 8-243. Exemptions. This ordinance shall apply to any land-disturbing activity undertaken by any person on any land within the unincorporated County except for the following:

- 1) Surface mining, as the same is defined in O.C.G.A. Section 12-4-72 “Mineral Resources and Caves Act”;
- 2) Granite quarrying and land clearing for such quarrying;
- 3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- 4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Division 4 of this ordinance and this paragraph;
- 5) Agricultural operations as defined in O.C.G.A. Section 1-3-3, “definitions”, to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chicken, hens and turkey; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products-and farm buildings and farm ponds;
- 6) Forestry land management practices, including harvesting, provided, however, that when such exempt forestry practices cause or result in land-disturbing activities otherwise prohibited in a buffer, as established in paragraph (16) of Section 8-247 of this ordinance, no other land-disturbing activities, except for normal forestry management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices;
- 7) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

- 8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any State Waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by Paragraphs 1, 2, 3, 4, 5, 6, 7, 9, 10, or 11 of this Division 3;
- 9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. Section 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. Section 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders
- 10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. Section 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- 11) Any public water system reservoir.

Sec. 8-244. Reserved

DIVISION 4. MINIMUM REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL USING BEST MANAGEMENT PRACTICES

Sec. 8-245. General Provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Division 4, Sections 8-246 and 8-247 of this ordinance. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities, and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

Sec. 8-246. Minimum Requirements/BMP's.

- (a) Best Management Practices as set forth in Division 4, Sections 8-246 and 8-247 of this ordinance shall be required for all land-disturbing activities. Proper design, installation, and maintenance of Best Management Practices shall constitute a complete defense to any action by the Director/Local Issuing Authority or to any other allegation of noncompliance with Paragraph B of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to Subsection (f) of O.C.G.A. Section 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean, designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. Section 12-7-6 subsection (b).
- (b) A discharge of storm water runoff from disturbed areas where Best Management Practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- (c) Failure to properly design, install, or maintain Best Management Practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A.

(d) Section 12-5-30, the “Georgia Water Quality Control Act”, for each day on which such failure occurs.

(d) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

Sec. 8-247. The rules and regulations, ordinances, or resolutions adopted pursuant to this ordinance for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.
- (2) Cut-fill operations must be kept to a minimum.
- (3) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential.
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- (6) Disturbed soil shall be stabilized as quickly as practicable.
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable.
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. Section 12-7-1 et seq.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills.

- (11) Cuts and fills may not endanger adjoining property.
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- (13) Grading equipment must cross flowing streams by means of bridges or culverts, except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments onsite or preclude sedimentation of adjacent waters beyond the levels specified in Division 4, Section 8-246 (b) of this ordinance.
- (15) Land-disturbing activities shall not be conducted within the 100-year flood plain unless compliance with the Fayette County Flood Plain Regulations is demonstrated.
- (16) Land-disturbing activities shall not be conducted within 25 feet of the banks of any state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. Section 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, that buffers of at least 25 feet established pursuant to Part 6 of Article 5, Chapter 5 of Title 12, of the Official Code of Georgia Annotated, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph.

The following requirements shall apply to any such buffer:

- (a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

- (b) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; causing a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented as: (i) stream crossings for water lines; or (ii) stream crossings for sewer lines
- (17) Brush Barriers are not acceptable for use as a sediment barrier for any land-disturbing activity other than for a timbering operation.

Sec. 8-248. Nothing contained in this ordinance shall supersede the buffer requirements specified in the Fayette County Watershed Protection Ordinance.

Sec. 8-249. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

DIVISION 5. APPLICATION/PERMIT PROCESS

Sec. 8-250. General. The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of Fayette County that affect the tract to be developed and the area surrounding it. They shall review all ordinances that regulate the development of land within unincorporated Fayette County. However, the operator is the only party that can obtain a permit.

Sec. 8-251. Application Requirements.

- (a) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of unincorporated Fayette County without first obtaining a Land Disturbance Permit from the Fayette County Engineering Department to perform such activity.
- (b) The application for a permit shall be submitted to the Engineering Department and must include the applicant's Erosion and Sedimentation Control Plan with supporting data, as necessary. Said Plans shall include, at a minimum, the data specified in Division V, Sections 8-251 and 8-252 of this ordinance. Soil Erosion And Sedimentation Control Plans shall conform to the provisions of Division 4, Sections 8-246 and 8-247 of this ordinance. Applications for a permit will not be accepted unless accompanied by two (2) copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the board.

- (c) A fee shall be charged for each application as determined by the Board of Commissioners of Fayette County, for the project area.
- (d) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. Section 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the Land Disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. Section 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. Section 12-7-17 shall be submitted in full to the division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- (e) Upon receipt of an application and plan for a permit, the Engineering Department shall review the plan and within fourteen (14) calendar days either approve or disapprove it concerning the adequacy of the Erosion and Sedimentation Control Plan. No permit will be issued unless the plan has been approved by the Engineering Department, and any variances required by Division 4, Section 8-247 (16), and bonding, if required as per Division 5, Section 8-251 (e)(2), have been obtained.
- (1) When reviewing any application for a land-disturbing activity permit, the Engineering Department shall consider the past record of the permit applicant in complying with previous land-disturbing activity permits and this ordinance. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Engineering Department may deny the application.
- (2) The Engineering Department may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof, up to, but not exceeding, \$3,000.00 per acre or a fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Engineering Department may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for a hearing and judicial review of any determination or order of the Engineering Department with respect to alleged permit violations.

Sec. 8-251.1 Plan Requirements.

- (a) Plans must be prepared to meet the minimum requirements as contained in Division IV, Section 8-246 and 8-247 of this ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control In Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this ordinance.

The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and State laws.

(b) Data Required for Site Plan:

- (1) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- (2) Description of existing land use at project site and description of proposed project.
- (3) Name, address, and phone number of property owner and party responsible for preparing the plan.
- (4) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.
- (5) Size of project, or phase under construction, in acres.
- (6) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that “the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities.”
- (7) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
- (8) Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.

- (9) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- (10) Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."
- (c) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to O.C.G.A. Section 12-7-20. The certified plans shall contain:
- (1) Graphic scale and north pointer arrow indicating magnetic north.
 - (2) Vicinity maps showing location of project and existing streets.
 - (3) Boundary line survey.
 - (4) Delineation of disturbed areas within project boundary.
 - (5) Existing and planned contours with an interval, in accordance with the following:

<u>Map Scale</u>	<u>Ground Slope</u>	<u>Contour Interval (ft)</u>
1 inch = 100 ft.	Flat 0 - 2%	0.5 or 1
or larger scale	Rolling 2-8%	1 or 2
	Steep 8% +	2, 5, or 10

- (6) Adjacent areas and feature areas such as streams, lakes, residential areas, etc. which might be affected shall be indicated on the plan.
- (7) Proposed structures or additions to existing structures and paved areas.
- (8) Delineate the 100-year flood plain(reference the data used in determination).
- (9) Delineate the 25-foot undisturbed horizontal buffer adjacent to state waters and the specified width in MRPA areas.

- (10) Location of erosion and sedimentation control measures and practices using code symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.
 - (11) Delineate the buffer and setback requirements of Fayette County's Watershed Protection Ordinance.
- (d) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

Sec. 8-253. Permits.

- (a) Permits shall be issued or denied as soon as practicable but in any event not later than fifteen (15) days after receipt by the Engineering Department of a completed application, provided variances and bonding are obtained, where necessary.
- (b) No permit shall be issued by the Engineering Department unless the erosion and sedimentation control plan has been approved by the District and the Engineering Department has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Division 4 Section 8-247 (16) are obtained, bonding requirements, if necessary, as per Division 5, Section 8-251 (e)(2) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of Fayette County are met.

If the permit is denied, the reason for denial shall be furnished to the applicant.

- (c) If the tract is to be developed in phases, then a separate permit shall be required for each phase. If a decision is made to plat the subdivision in phases after the Land Disturbance Permit has been issued, and the rights-of-way have been cleared, the cleared areas outside of the phase to be constructed must be mulched and grassed. A new Land Disturbance Permit must be issued before work can begin in any subsequent phase.
- (d) The permit may be suspended, revoked, or modified by the Engineering Department, as to all or any portion of the land affected by the plan, upon finding that the holder or his or her successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his or her successor in title is in violation of this ordinance. A holder of a permit shall notify any successor in title to him or her as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (e) No land disturbance permit shall be issued for any lot in a subdivision with a minimum lot size less than 2.0 acres unless it is issued in conjunction with a building permit.

- (f) If the work has not begun within ninety (90) calendar days of the issuance of a Land Disturbance Permit, then the permit shall expire. The Land Disturbance Permit will expire if the project is not completed and approved within 18 months of the issuance of the permit. If project is a phased project, as indicated on the approved site plan or preliminary plat, then each phase of the project has an 18-month time limit. When a Land Disturbance Permit expires, the developer will have to apply for a new one.
- (g) The Land Disturbance Permit must be posted at the entrance to the site in a place where it can easily be seen.

DIVISION 6. INSPECTION AND ENFORCEMENT

Sec. 8-254. The Engineering Department will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the Plan and if the measures required in the Plan are effective in controlling erosion and sedimentation. Also, the Engineering Department shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of Best Management Practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of Best Management Practices where the secondary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities, as defined herein, has failed to comply with the approved Plan, with permit conditions, or with the provisions of this ordinance, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he or she shall be deemed in violation of this ordinance.

Sec. 8-255. The Engineering Department shall have the power to conduct such investigations as may be reasonably deemed necessary to carry out duties as prescribed in this ordinance, and for this purpose to enter, at reasonable times, upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

Sec 8-256. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the Commission, the District, or Division who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his or her official duties.

Sec. 8-257. The District or the Commission or both shall periodically review the actions of the Local Issuing Authority pursuant to O.C.G.A. Section 12-7-8 (a). The District or the Commission or both may provide technical assistance to Fayette County for the purpose of improving the effectiveness of the County's Erosion and Sedimentation Control Program. The District or the Commission shall notify the Division and request investigation by the Division if the County's program is found to be deficient or ineffective.

Sec. 8-258. The Board has promulgated rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a Local Issuing Authority. The Division may periodically review the actions of the County, which has been certified as Local Issuing Authority pursuant to O.C.G.A. Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of the County's ordinances and review of conformance with an agreement, if any, between the District and the County. If

such review indicates that the County certified pursuant to O.C.G.A. Section 12-7-8 (a), has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. Section 12-7-7(d), the Division shall notify the County in writing. The County so notified shall have 30 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the County does not take necessary corrective action within 30 days after notification by the Division, the Division may revoke the certification of the County as a Local Issuing Authority.

DIVISION 7. PENALTIES AND INCENTIVES

Sec. 8-259. Failure to obtain a Permit for Land-Disturbing Activity: If any person commences any land-disturbing activity requiring a Land-Disturbing Permit as prescribed in this ordinance without first obtaining said Permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of Fayette County.

Sec. 8-260. Stop-Work Orders: Upon notice from the Engineering Department, work on any project that is being done contrary to the provisions of this ordinance or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his or her authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

Sec. 8-261. Bond Forfeiture: If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved Plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the Plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply with the time specified, he or she shall be deemed in violation of this ordinance and, in addition to other penalties, shall be deemed to have forfeited his or her performance bond, if required to post one under the provisions of Division 5, Section 8-251 (e)(2). The Engineering Department may call the bond or any part hereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

Sec. 8-262. Monetary Penalties: Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Engineering Department, issued as provided in this ordinance, shall be liable for a civil penalty not to exceed \$2,500.00 per day, per violation, or a sentence of imprisonment not to exceed 60 days or both. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

DIVISION 8. EDUCATION AND CERTIFICATION

Sec. 8-263. Education and Certification: After December 31, 2006, all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the Commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. Section 12-7-20.

DIVISION 9. ADMINISTRATIVE APPEAL JUDICIAL REVIEW

Sec. 8-264. Administrative Remedies: The suspension, revocation, modification or grant with condition of a permit by the Engineering Department upon finding that the holder is not in compliance with the approved Erosion and Sediment Control Plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the Plan or holding the permit to a hearing before the Board of Commissioners of Fayette County within thirty (30) days after receipt by the Engineering Department of written notice of appeal.

Sec. 8-265. Judicial Review: Any person, aggrieved by a decision or order of the Engineering Department, after exhausting his or her administrative remedies, shall have the right to appeal de novo to the Superior Court of Fayette County.

DIVISION 10. EFFECTIVITY, VALIDITY AND LIABILITY

Sec. 8-266. Effectivity: This ordinance shall become effective on the 1st day of March 2004.

Sec. 8-267. Validity: If any section, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this ordinance.

Sec. 8-268. Liability.

- (a) Neither the approval of a Plan under the provisions of this ordinance, nor the compliance with provisions of this ordinance shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon Fayette County or the district for damage to any person or property.
- (b) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof nor create a

presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

- (c) No provision of this ordinance shall permit any person to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Water of the State as defined hereunder.

Secs. 8-268-300 Reserved.

(Ord. No. 2000-07)